

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**Jon Cornick,**  
Petitioner-Appellant.

v.

**Bremer County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 09-09-0117**  
**Parcel No. 330-10-18-200-017**

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On October 6, 2009, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Jon Cornick was self-represented and submitted evidence in support of his petition. He participated in the hearing by telephone. The Bremer County Board of Review designated Bremer County Attorney Kasey Wadding as its legal representative. The Board submitted documentary evidence prepared by Assessor Jean Keller in support of its petition and she represented it at hearing. The Appeal Board now having reviewed the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Jon Cornick, owner of property located at 2422 Grand Avenue, Waverly, Iowa, appeals from the Bremer County Board of Review decision reassessing his property. The real estate was classified as residential realty for the January 1, 2009, assessment and valued at \$449,300; representing \$382,420 for the dwelling and \$66,880 for the land.

Mr. Cornick protested to the Board of Review on the grounds that the property's assessment was not equitable with the assessments of other like properties under Iowa Code section 441.37(1)(a), that the property was assessed for more than authorized by law under section 441.27(1)(b), and that there is an error in the assessment under section 441.27(1)(d). In response to the protest, the Board of

Review notified Mr. Cornick that the assessment would be reduced to \$378,750 stating, in part, “assessment changed for prior year because of clerical or calculation error and after consideration of all data presented to the Board of Review, assessment was changed.”

Mr. Cornick then filed an appeal with this Board. He again alleges the grounds of inequity and over-assessment, but does not allege error in the assessment. Mr. Cornick also requests relief for taxes payable. Specifically, he requests that this Board correct his 2008 assessment for an error. While we note the Board of Review has the authority to correct math and clerical errors, Mr. Cornick was informed at hearing that this Board would not address his 2008 assessment. Even if this Board had the authority to correct the 2008 assessment, the claim of error in this factual situation is a difference of opinion regarding the percentage of completion of his property for the 2008 partial assessment. Therefore, this is not an issue for this Board to decide as it does not involve a clerical or mathematical error from a previous year’s assessment. We will only consider the grounds of inequity and over-assessment, as these were the grounds alleged to the Board of Review and this Board. The amount of relief sought in the appeal by Mr. Cornick is \$18,750, who values the property at \$360,000.

The subject property is a two-story, frame dwelling built in 2007, with attached garage on a 9.7 acre parcel.

Mr. Cornick submitted two appraisals for the property. Both appraisals were completed for lending purposes. The first appraisal, dated May 2009, was prepared by Rally Appraisal, LLC for loan purposes. That appraisal estimated the market value of the property at \$360,000. The second appraisal, dated July 2008, was prepared by Appraiser Larry Moser. It had the same appraised value of \$360,000 for the subject property. We note this appraisal and the Rally appraisal, done almost a year later, arrived at the same market value. While both appraisals were entered into evidence, neither appraiser testified at hearing regarding their appraisals.

Mr. Cornick testified that he believes the two appraisals he submitted shifted the burden of proof to Bremer County under Iowa Code section 441.21(3). In Mr. Cornick's opinion, the appraisals for lending purposes demonstrate the fair market value of the subject property because, unlike Bremer County, he did not personally select the appraiser. Mr. Cornick contends that the appraiser selected by the county works for it on a regular basis and, therefore, is not a disinterested witness.

Darwin Eick, Deputy Assessor, testified at hearing on behalf of the Board of Review. Mr. Eick testified that he physically inspected the interior and exterior of the subject property twice and on the last inspection the property was mostly complete. Mr. Eick also testified that the subject property had a building permit for \$370,664 in April 2007, and the building site was purchased for \$56,500 in 2006.

Assessor Jean Keller testified that she used the *Real Property Appraisal Manual* to value the property. Ms. Keller testified that she believes the two loan appraisals submitted by Mr. Cornick should not be used for the purpose of property assessment. Ms. Keller also stated that the Board of Review inspected the subject property and comparable sales to determine that the assessment should be lower than the January 1, 2009, assessment set by the assessor.

The Board of Review also requested that Keith Jones, Valuation Services, do an appraisal of the subject property. Mr. Jones appraised the property for \$372,500 as of the January 1, 2009, assessment date.

Although Mr. Cornick contends he shifted the burden of proof to the Board of Review by providing two appraisals, without having the appraisers testify at hearing, he did not shift the burden. Despite this, we believe the evidence in the record supports the claim that the property is over-assessed. This Board has reviewed all three of the appraisals submitted as evidence. All three appraised values were less than the assessed value established by the Board of Review. Further, we find the Jones' appraisal as of January 1, 2009, to be the most credible evidence of the assessed value of the property. This is not to suggest, however, that this Board discredits the fair market value



estimates of the two appraisals completed for lending purposes. Appraisals for lending can be completed for many reasons. We find that the Jones' appraisal best reflects the value of the property as of January 1, 2009, because the appraisal's effective date is the assessment date.

### *Conclusions of Law*

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. Iowa Code § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

The burden of proof is upon the appellant; however, when the appellant offers competent evidence by at least two disinterested witnesses that the market value of the property is less than the market value determined by the assessor, the burden of proof thereafter shall be upon the officials or

persons seeking to uphold such valuation.” Iowa Code § 441.21(3). To be competent evidence, “the testimony of the disinterested witnesses must comply with the statutory scheme for property valuation for tax assessment purposes.” *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 279 (Iowa 1995). Even if the appellant has not shifted the burden of proof, he may still prevail on his claim by establishing “by a preponderance of the evidence that the challenged valuation is excessive, inadequate, inequitable or capricious.” *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986). In this case, Mr. Cornick contends he shifted the burden of proof to the Board of Review by submitting two appraisals of his property. The appraisers did not “testify” as required by the statute and therefore, he did not shift the burden, but he could still prevail on his claims.

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). It is our conclusion that Mr. Cornick failed to present persuasive evidence sufficient to support the claim that their assessment was not equitable as compared with assessments of other like property in the taxing district.

Mr. Cornick also appealed on the ground that the property is over-assessed. In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Viewing the evidence as a whole, we determine Mr. Cornick showed that his property was over-assessed. Further, of the three appraisals, we find the appraisal submitted by the Bremer County Board

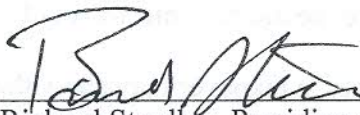


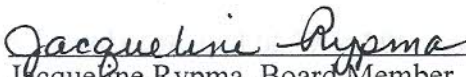
of Review is the most relevant since it is reflective of the assessment date. We, therefore, modify the Cornick property as determined by the Board of Review as of January 1, 2009.

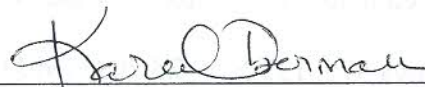
THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Bremer County Board of Review, is modified as follows: total value of \$372,500, representing \$66,880 in land and \$305,620 in dwelling value.

The Secretary of the Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Bremer County Auditor and all tax records, assessment books and other records pertaining to the assessment reference herein on the subject parcel shall be corrected accordingly.

Dated this 18 day of November, 2009.

  
Richard Stradley, Presiding Officer

  
Jacqueline Rypma, Board Member

  
Karen Oberman, Board Chair

Copies to:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>11-19</u> , 200 <u>9</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
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